

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 137

AN ACT

To repeal sections 34.040 and 136.055, RSMo, and to enact in lieu thereof two new sections relating to competitive bidding, with an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 34.040 and 136.055, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as
3 sections 34.040 and 136.055, to read as follows:

4 34.040. 1. All purchases in excess of three thousand
5 dollars shall be based on competitive bids, except as otherwise
6 provided in this chapter.

7 2. On any purchase where the estimated expenditure shall be
8 twenty-five thousand dollars or over, except as provided in
9 subsection 5 of this section, the commissioner of administration
10 shall:

11 (1) Advertise for bids in at least two daily newspapers of
12 general circulation in such places as are most likely to reach
13 prospective bidders and may advertise in at least two weekly
14 minority newspapers and may provide such information through an
15 electronic medium available to the general public at least five
16 days before bids for such purchases are to be opened. Other

1 methods of advertisement, which may include minority business
2 purchase councils, however, may be adopted by the commissioner of
3 administration when such other methods are deemed more
4 advantageous for the supplies to be purchased;

5 (2) Post a notice of the proposed purchase in his or her
6 office; and

7 (3) Solicit bids by mail or other reasonable method
8 generally available to the public from prospective suppliers.

9 All bids for such supplies shall be mailed or delivered to the
10 office of the commissioner of administration so as to reach such
11 office before the time set for opening bids.

12 3. The contract shall be let to the lowest and best bidder.
13 The commissioner of administration shall have the right to reject
14 any or all bids and advertise for new bids, or purchase the
15 required supplies on the open market if they can be so purchased
16 at a better price. When bids received pursuant to this section
17 are unreasonable or unacceptable as to terms and conditions,
18 noncompetitive, or the low bid exceeds available funds and it is
19 determined in writing by the commissioner of administration that
20 time or other circumstances will not permit the delay required to
21 resolicit competitive bids, a contract may be negotiated pursuant
22 to this section, provided that each responsible bidder who
23 submitted such bid under the original solicitation is notified of
24 the determination and is given a reasonable opportunity to modify
25 their bid and submit a best and final bid to the state. In cases
26 where the bids received are noncompetitive or the low bid exceeds
27 available funds, the negotiated price shall be lower than the
28 lowest rejected bid of any responsible bidder under the original

1 solicitation.

2 4. The director of the department of revenue shall follow
3 bidding procedures as contained in this chapter and may
4 promulgate rules necessary to establish such procedures. No
5 points shall be awarded on a request for proposal for a contract
6 license office to a bidder for a return-to-the-state provision
7 offer.

8 5. All bids shall be based on standard specifications
9 wherever such specifications have been approved by the
10 commissioner of administration. The commissioner of
11 administration shall make rules governing the delivery,
12 inspection, storage and distribution of all supplies so purchased
13 and governing the manner in which all claims for supplies
14 delivered shall be submitted, examined, approved and paid. The
15 commissioner shall determine the amount of bond or deposit and
16 the character thereof which shall accompany bids or contracts.

17 [5.] 6. The department of natural resources may, without
18 the approval of the commissioner of administration required
19 pursuant to this section, enter into contracts of up to five
20 hundred thousand dollars to abate illegal waste tire sites
21 pursuant to section 260.276 when the director of the department
22 determines that urgent action is needed to protect public health,
23 safety, natural resources or the environment. The department
24 shall follow bidding procedures pursuant to this section and may
25 promulgate rules necessary to establish such procedures. Any
26 rule or portion of a rule, as that term is defined in section
27 536.010, that is created under the authority delegated in this
28 section shall become effective only if it complies with and is

1 subject to all of the provisions of chapter 536 and, if
2 applicable, section 536.028. This section and chapter 536 are
3 nonseverable and if any of the powers vested with the general
4 assembly pursuant to chapter 536 to review, to delay the
5 effective date or to disapprove and annul a rule are subsequently
6 held unconstitutional, then the grant of rulemaking authority and
7 any rule proposed or adopted after August 28, 1999, shall be
8 invalid and void.

9 [6.] 7. The commissioner of administration and other
10 agencies to which the state purchasing law applies shall not
11 contract for goods or services with a vendor if the vendor or an
12 affiliate of the vendor makes sales at retail of tangible
13 personal property or for the purpose of storage, use, or
14 consumption in this state but fails to collect and properly pay
15 the tax as provided in chapter 144. For the purposes of this
16 section, "affiliate of the vendor" shall mean any person or
17 entity that is controlled by or is under common control with the
18 vendor, whether through stock ownership or otherwise.

19 136.055. 1. Any person who is selected or appointed by the
20 state director of revenue as provided in subsection 2 of this
21 section to act as an agent of the department of revenue, whose
22 duties shall be the processing of motor vehicle title and
23 registration transactions and the collection of sales and use
24 taxes when required under sections 144.070 and 144.440, and who
25 receives no salary from the department of revenue, shall be
26 authorized to collect from the party requiring such services
27 additional fees as compensation in full and for all services
28 rendered on the following basis:

1 (1) For each motor vehicle or trailer registration issued,
2 renewed or transferred--three dollars and fifty cents and seven
3 dollars for those licenses sold or biennially renewed pursuant to
4 section 301.147;

5 (2) For each application or transfer of title--two dollars
6 and fifty cents;

7 (3) For each instruction permit, nondriver license,
8 chauffeur's, operator's or driver's license issued for a period
9 of three years or less--two dollars and fifty cents and five
10 dollars for licenses or instruction permits issued or renewed for
11 a period exceeding three years;

12 (4) For each notice of lien processed--two dollars and
13 fifty cents;

14 (5) No notary fee or other fee or additional charge shall
15 be paid or collected except for electronic telephone transmission
16 reception--two dollars.

17 2. The director of revenue shall award fee office contracts
18 under this section through a competitive bidding process. The
19 competitive bidding process shall give priority to organizations
20 and entities that are exempt from taxation under Section
21 501(c)(3) [or], 501(c)(6), or 501(c)(4), except those civic
22 organizations that would be considered action organizations under
23 26 C.F.R. Section 1.501(c)(3)-1(c)(3), of the Internal Revenue
24 Code of 1986, as amended, with special consideration given to
25 those organizations and entities that reinvest a minimum of
26 seventy-five percent of the net proceeds to charitable
27 organizations in Missouri, and political subdivisions, including
28 but not limited to, municipalities, counties, and fire protection

1 districts. The director of the department of revenue may
2 promulgate rules and regulations necessary to carry out the
3 provisions of this subsection. Any rule or portion of a rule, as
4 that term is defined in section 536.010, that is created under
5 the authority delegated in this subsection shall become effective
6 only if it complies with and is subject to all of the provisions
7 of chapter 536 and, if applicable, section 536.028. This section
8 and chapter 536 are nonseverable and if any of the powers vested
9 with the general assembly pursuant to chapter 536 to review, to
10 delay the effective date, or to disapprove and annul a rule are
11 subsequently held unconstitutional, then the grant of rulemaking
12 authority and any rule proposed or adopted after August 28, 2009,
13 shall be invalid and void.

14 3. All fees collected by a tax-exempt organization may be
15 retained and used by the organization.

16 4. All fees charged shall not exceed those in this section.
17 The fees imposed by this section shall be collected by all
18 permanent offices and all full-time or temporary offices
19 maintained by the department of revenue.

20 5. Any person acting as agent of the department of revenue
21 for the sale and issuance of registrations, licenses, and other
22 documents related to motor vehicles shall have an insurable
23 interest in all license plates, licenses, tabs, forms and other
24 documents held on behalf of the department.

25 6. The fees authorized by this section shall not be
26 collected by motor vehicle dealers acting as agents of the
27 department of revenue under section 32.095 or those motor vehicle
28 dealers authorized to collect and remit sales tax under

1 subsection 8 of section 144.070.

2 7. Notwithstanding any other provision of law to the
3 contrary, the state auditor may audit all records maintained and
4 established by the fee office in the same manner as the auditor
5 may audit any agency of the state, and the department shall
6 ensure that this audit requirement is a necessary condition for
7 the award of all fee office contracts. No confidential records
8 shall be divulged in such a way to reveal personally identifiable
9 information.

10 Section B. Because of the need to ensure a fair bidding
11 process for contract license offices, section A of this act is
12 deemed necessary for the immediate preservation of the public
13 health, welfare, peace and safety, and is hereby declared to be
14 an emergency act within the meaning of the constitution, and
15 section A of this act shall be in full force and effect upon its
16 passage and approval.